

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture proposes to amend Sections 2675, 2676, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2801 and 2802; and adopt Sections 2681 and 2799 of the regulations in Title 3 of the California Code of Regulations pertaining to commercial feed.

A public hearing is not scheduled. A public hearing will be scheduled if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

Notice is also given that any interested person may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 6, 2001.

#### **INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW**

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry by ensuring in every way possible a clean and wholesome supply of meat, milk, and eggs for the benefit of the consumer. (Food and Agricultural Code, Sections 407 and 14901). Existing law provides that the Secretary may adopt regulations as he deems necessary to circumscribe and prevent adulterated feed to protect California's agricultural industry and the consumer (Food and Agricultural Code 14902).

The amendment of Section 2675, adds subsection (h) providing a definition for "Prohibited Mammalian Tissue.

The amendment of Section 2676, revises subsections (a) and (b) changing the old title of "director" to the new title of "secretary"; adds subsection (c)(1), (2) and (3) provides that premixes containing 272.4 milligrams per pound (600 parts per million) or more added selenium shall be maintained by a daily inventory record.

The adoption of Section 2681 provides that the manufacture, distribution and use of commercial feed for ruminant animals containing protein derived from prohibited mammalian tissues shall comply with the requirements of Title 21, Code of Federal Regulations, Part 589.2000.

The amendment of Section 2694, revises subsection (j), changing "one-half of one percent" to read "0.5 percent"; revises subsection (l) changing the word "fifteen" to read "15"; and adds the provision that when dried animal waste is used in a mixed feed, the moisture of the mixed feed shall not exceed 12 percent; and adds subsection (p), providing that commercial feeds containing

added selenium must be labeled in accordance with section 2697 "Labeling for Special Purposes".

The amendment of Section 2695, revises subsection (b) by adding item number "(13)", "Wheat Products", as defined in section 2800, to the list of roughage products.

The amendment of Section 2697, adds subsection (d)(l)(2) and (3), which provides that commercial feeds containing more than 0.3 parts per million (ppm) added selenium shall include a guaranteed analysis on the label for the minimum and maximum parts per million of selenium; feeding and/or mixing instructions that bear adequate directions for the safe and approved use of a feed containing added selenium, including the maximum approved levels of use for a specific species; and the statement "Caution: Follow label directions: feeding Selenium at levels in the total diet in excess of 0.3 ppm per ration dry matter is prohibited.

The amendment of Section 2701, adds subsection (g), which provides that each batch or production run of medicated feed shall be identified with its own individual batch or production run number, code, date or other suitable identification, and that bulk feed shall have this information stated on the label, invoice or shipping document. Sacked or packaged feed shall have the lot number applied to the label, sack or package and this identification shall be adequate to facilitate the tracing of the complete manufacturing and distribution history of the product.

The amendment of Section 2734, adds subsection (b), which provides the use or intended use in ruminant feed of any material that contains protein derived from prohibited mammalian tissues causes the feed to be adulterated and in violation of the Food and Agricultural Code.

The amendment of Section 2773.1, revises subsection (a) changing "28.0" to read "28" and "15.0" to read "15"; deletes subsection (g), "Alfalfa Straw Meal"; revises subsection (h) to read subsection (g); adds subsection (h) providing a definition for "Alfalfa Nutrient Concentrate"; adds subsection (i) providing a definition for "Concentrated Alfalfa Solubles"; and revises subsection (i) to read subsection (j).

The amendment of Section 2773.5 revises subsection (a) by deleting "large twigs and branches" and "Almond hulls shall be processed in accordance with" and adds "except in such trace amounts as unavoidably occur in" good manufacturing practices.

The amendment of Section 2774, revises subsection (a) by adding the provision that any animal protein product sold as pure porcine shall be so labeled, pursuant to CFR 589.2000; revises subsection (b) changing the definition of "Meat Meal"; revises subsection (c) changing the definition of "Meat and Bone

Meal”; revises subsection (d) changing the definition of “Blood Meal”; revises subsection (e) changing the definition of “Poultry By-Product Meal”; adds subsection (i) providing a definition for “Dried Meat Solubles”; adds subsection (j) providing a definition for “Fleshings Hydrolysate”; adds subsection (k), providing a definition for “Animal By-Product Meal”; adds subsection (l), providing a definition for “Hydrolyzed Hair”; adds subsection (m), providing a definition for “Hydrolyzed Leather Meal”; adds subsection (n), providing a definition for “Sprayed Dried Animal Blood”; adds subsection (o) providing a definition for “Egg Shell Meal”; adds subsection (p), providing a definition for “Egg Product”; adds subsection (q) providing a definition for “Poultry Meal”; adds subsection (r) providing a definition for “Blood Meal, Flash Dried”; adds subsection (s) providing a definition for “Glandular Meal and Extracted Glandular Meal”; adds subsection (t) providing a definition for “Animal Plasma”; adds subsection (u) providing a definition for “Ensiled Paunch Product”; and adds subsection (v) providing a definition for “Leather Hydrolyzate”.

The Amendment of Section 2774.5 revises subsection (b)(2) adding the phrase “Commercial feeds containing” to the current statement and deletes “at time of sale”; and revises subsection (f) by changing “12%” to read “12 percent”.

The amendment of Section 2775, adds subsection (c) providing a definition for “Wet Apple Pomace”.

The amendment of Section 2778, adds subsection (b) providing a definition for “Brewers Wet Grain”; revises subsection (b) to subsection (c); revises subsection (c) to subsection (d); revises subsection (d) to subsection (e); revises subsection (e) to subsection (f); revises subsection (f) to subsection (g); revises subsection (g) to subsection (h); revises subsection (h) to subsection (i); revises subsection (i) to subsection (j); revises subsection (j) to subsection (k); revises subsection (k) to subsection (l); and revises subsection (l) to subsection (m).

The amendment of Section 2782, revises subsection (h), changing the definition of “Corn Gluten Feed”; deletes subsection (i), “Maltose Process Corn Gluten Feed”; revises subsection (j) to subsection (i), and changes the definition of “Hominy Feed”; deletes subsection (k) “Corn Oil Cake”; adds subsection (j) providing a definition for “Corn Germ Meal (Wet Milled)”; adds subsection (k) providing a definition for “Corn Germ Meal (Dry Milled)”; deletes subsection (l), “Corn Oil Meal”; deletes subsection (m), “Corn Germ Cake”; and deletes subsection (n), “Corn Germ Meal”.

The amendment of Section 2783, revises subsection (a) changing the definition of “Cottonseed Meal, Mechanical Extracted”; revises subsection (b) changing the definition for “Cottonseed Meal, Solvent Extracted”; revises subsection (c) changing the definition of “Cottonseed Cake, Mechanical Extracted”; revises subsection (d), changing the definition of “Cottonseed Flakes, Mechanical Extracted”; revises subsection (e) changing the definition of “Cottonseed Flakes,

Solvent Extracted”; revises subsection (f) changing the definition of “Whole-Pressed Cottonseed, Mechanical Extracted”; revises subsection (j) changing the definition of “whole cottonseed”; and adds subsection (k) providing a definition for “Cracked or Ground Pima”.

The amendment of Section 2783.5, revises subsection (a) changing the phrase “suitable for animal feed” to read “safe for use as animal feed”; deletes subsection (b), “Acidulated Soap Stock (foots)”; revises subsection (c) to subsection (b), and changes the name of the subsection from “Tallow” to “Animal Fat”; deletes subsection (d), “Greases (White and Yellow Greases)”; revises subsection (e) to read subsection (c), and changes “Blending Feeding Fat” to read “Fat Product, Feed Grade”; revises subsection (f) to subsection (d), and revises the definition of “Vegetable Fat or Oil”; revises subsection (g) to subsection (e), and changes the definition for “Hydrolyzed Fat or Oil (feed grade)”; revises subsection (h) to read subsection (f), and changes the definition for “Ester (feed grade)”; deletes subsection (i), “Fat Product (feed grade)”; adds subsection (g) providing a definition for “Corn Endosperm Oil”; adds subsection (h) providing a definition for “Corn Syrup Refinery Insolubles, Feed Grade”; adds subsection (i) providing a definition for “Calcium Salts of Long-Chain Fatty Acids”; adds subsection (j) providing a definition for “Hydrolyzed Sucrose Polyesters, Feed Grade”; and adds subsection (k) providing a definition for “Vegetable Oil Refinery Lipid, Feed Grade”.

The amendment of Section 2788, revises subsection (b) changing the definition of “Fish Meal”; revises subsection (c) changing the definition of “Fish Residue Meal”; revises subsection (e) changing the definition of “Crab Meal”; revises subsection (f) changing the definition of “Shrimp Meal”; deletes subsection (g), “Shark Meal”; deletes subsection (h), “Cod Liver Oil”; deletes subsection (i), “Vitamin A and D Feeding Oil”; deletes subsection (j), “Vitamin A Feeding Oil”; deletes subsection (k), “Vitamin D Feeding Oil”; revises subsection (l) to subsection (g); revises subsection (m) to subsection (h); revises subsection (n) to subsection (i); and changes the definition of “Condensed Fish Solubles”; and revises subsection (o) to subsection (j), and changes the definition of “Fish Glandular and Liver Hydrolysate”.

The amendment of Section 2789, revises subsection (g) changing the name of “Dried Whey” to “Dried (Dry) Whey”, and changes the definition; revises subsection (i) changing the name of “Dried Whey Solubles” to read “Dried (Dry) Whey Solubles”; revises subsection (m) changing the name “Condensed Whey-Product” to read “Condensed Whey Product”, as an editorial change, and changes the definition; revises subsection (n) changing the name “Dried Whey-Product” to read “Dried (Dry) Whey Product”, and revises the definition; adds subsection (p), “Whey” providing a definition; revises subsection (p) to subsection (q); revises subsection (q) to subsection (r); revises subsection (r) to subsection (s), and changes the name “Dried Milk Albumin” to read “Dried Lactalbumin”; revises subsection (s) to subsection (t); revises subsection (t) to subsection (u);

revises subsection (u) to subsection (v); revises subsection (v) to subsection (w); revises subsection (w) to subsection (x); revises subsection (x) to subsection (y); and changes the percentage sign “%” to “percent”; and adds subsection (z) providing a definition for Dairy Food By-Products”.

The amendment of Section 2790, revises subsection (a) changing the word “nine” to read “9” and “(9%)” has been deleted replaced by the word “percent”; revises subsection (d) changing the name “Trace Mineralized” to read “Trace Mineralized Salt”; revises subsection (g) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”; revises subsection (h) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”; revises subsection (i) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”; revises subsection (j) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”; revises subsection (k) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”; revises subsection (l) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”, and adds the statement “precipitated chalk must be used in all labeling”; revises subsection (m) adding the phrase “be true to name and”, and revises “36 percent” to read “33 percent”, and adds the statement “ground limestone must be used in all labeling”; revises subsection (n), adding the statement “is a product true to name which”; revises subsection (z) “Ammonium Polyphosphate Solution” by adding the word “shall” for clarification and changes the definition; and revises subsection (ee) “Ammonium Sulfate” changing the definition.

The amendment of Section 2790.5, revises subsection (d), changing the definition of “Cane Molasses”; deletes subsection (e) “Forty-Six Percent Cane Molasses”; deletes subsection (f) “Condensed Cane Sugar”; revises subsection (g) to subsection (e); revises subsection (h) to subsection (f); adds subsection (g) providing a definition for “Concentrated Separator By-Product (CSB)”; and adds and subsection (h) providing a definition for “Concentrated Steffen Filtrate (CSF)”.

The amendment of Section 2793, revises subsection (a) changing the name from “Peanut Meal and Hulls” to read “Peanut Meal and Hulls, Mechanical Extracted and Solvent Extracted”, and changes the definition; revises subsection (b) changing the definition of “Peanut Skins”; deletes subsection (c) “Ground Peanut Vines”; deletes subsection (d) “Ground Peanut Stems”; revises subsection (e) to subsection (c), and changes the name from “Peanut Meal” to read “Peanut Meal, Mechanical Extracted”, and revised the definition; and revises subsection (f) to subsection (d).

The amendment of Section 2794, subsection (b) revises “%” to read “percent”; revises subsection (c) changing the definition of “Rice Bran, Solvent Extracted”; adds subsection (h) providing a definition for “Chipped Rice, Broken Rice, or Brewers Rice”; adds subsection (i) providing a definition for Ground Brown Rice”;

adds subsection (j) providing a the definition for “Parboiled Rice Bran”; and adds subsection (k) providing a definition for “Stabilized Rice Bran”.

The amendment of Section 2796 revises subsection (a) changing the definition of “Grain Screenings”; revises subsection (b) changing the definition of “Seed Screenings”; and deletes subsection (d) “Screenings Oil Feed”.

The amendment of Section 2798, revises subsection (b) changing the definition of “Ground Soybean Hay”; revises subsection (e) changing the name “Soy Grits or Soy Flour” to read “Soy Flour”, and revises the definition; revises subsection (f) changing the definition of “Soybean Meal, Mechanical Extracted”; revises subsection (g) changing the definition “Soybean Meal, Solvent Extracted”; revises subsection (h) changing the definition of “Soybean Meal, Dehulled, Solvent Extracted”; revises subsection (k) changing the name “Soy Phosphatide or Soy Lecithin” to read “Soy Phosphate or Soy Lecithin”, and changes the definition; revises subsection (l) changing the definition for “Heat Processed Soybeans”; revises subsection (m) changing the definition for “Soy Protein Concentrate” ; revises subsection (n) changing the definition for “Kibbled Soybean Meal”; and revises subsection (o) changing the definition for “Condensed Soybean Solubles”.

The adoption of Section 2799 adds subsection (a) providing a definition for “Canola Meal”; and adds subsection (b) providing a definition for “Rapeseed Meal, Mechanical Extracted”.

The amendment of Section 2801, revises subsection (a), changes the name “Dried Yeast” to read “Primary Dried Yeast or Dried Yeast”, and revises the definition; revises subsection (b) changing the name “Irradiated Yeast” to read “Irradiated Dried Yeast”, and revises the definition; adds subsection (d) providing a definition for “Active Dry Yeast; adds subsection (e) providing a definition for “Brewers Dried Yeast”; adds subsection (f) providing a definition for “Torula Dried Yeast or Candida Dried Yeast”; adds subsection (g) providing a definition for “Yeast Culture”; adds subsection (h) providing a definition for “Molasses Yeast Condensed Solubles”; and adds subsection (i) providing a definition for “Brewers Liquid Yeast”.

The amendment of Section 2802, revises subsection (c), changing the definition for “Silage”; revises subsection (f), changing the definition for “Dried Citrus Pulp, Citrus Meal”; adds subsection (g) providing a definition for “Wet Citrus Pulp”; revises subsection (g) to subsection (h); revises subsection (h) to subsection (i); revises subsection (i) to subsection (j); revises subsection (j) to subsection (k); revises subsection (k) to subsection (l); revises subsection (l) to subsection (m); revises subsection (m) to subsection (n), and revises “salt (NaCl)” to read “Sodium (Na)”, to be consistent with current industry practices; revises subsection (n) to subsection (o); revises subsection (o) to subsection (p); deletes subsection (p) “Rapeseed or Canola Meal, Mechanically Extracted”; and revises

subsection (x) changing the “% Salt” to read “percent sodium”, for consistency and as an editorial change.

### **COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Secretary of the Department of Food and Agriculture has determined that Sections 2675, 2676, 2681, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2799, 2801 and 2802 do not impose a mandate on local agencies or school districts.

### **FISCAL IMPACTS**

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no cost or savings to any state agencies and no costs or savings in federal funding to the State will result from the proposed action.

### **EFFECT ON HOUSING COSTS**

The Department has made an initial determination that the proposed action will not have a significant effect on housing costs.

### **EFFECT ON BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly effecting businesses, including the ability of California businesses to compete with businesses in other states.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **ASSESSMENT**

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

## **ALTERNATIVES CONSIDERED**

The Secretary of the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **AUTHORITY**

The Department proposes to amend Sections 2675, 2676, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2801 and 2802; and adopt Sections 2681 and 2799 pursuant to the authority vested by Sections 407 and 14902 of the Food and Agricultural Code of California.

The Department proposes to amend Section 2694 and 2695 pursuant to the authority vested by Sections 407, 14902 and 14992 of the Food and Agricultural Code of California.

## **REFERENCE**

<b><u>Section</u></b>	<b><u>Action</u></b>	<b><u>Reference</u> <u>(Food and Agricultural Code Sections)</u></b>
2675	Amend	14925, 14991 and 14992(e)
2676	Amend	14903, 15011, 15031 and 15041
2681	Adopt	14093 and 15041
2694	Amend	14992
2695	Amend	14992(e)
2697	Amend	14903, 14993 and 15011
2701	Amend	14903, 14992(f) and 15011
2734	Amend	15041
2773.1	Amend	14992 and 15011
2773.5	Amend	14992 and 15011
2774	Amend	14992 and 15011
2774.5	Amend	14992, 15011 and 15051
2775	Amend	14992 and 15011
2778	Amend	14992 and 15011
2782	Amend	14992 and 15011
2783	Amend	14992 and 15011
2783.5	Amend	14992 and 15011
2788	Amend	14992 and 15011
2789	Amend	14992 and 15011



<b>Section</b>	<b>Action</b>	<b><u>Reference</u> (Food and Agricultural Code Sections)</b>
2790	Amend	14992 and 15011
2790.5	Amend	14992 and 15011
2793	Amend	14992 and 15011
2794	Amend	14992 and 15011
2796	Amend	14992 and 15011
2798	Amend	14992 and 15011
2799	Adopt	14992 and 15011
2801	Amend	14992 and 15011
2802	Amend	14992 and 15011

### **EFFECT ON SMALL BUSINESSES**

The amendment of these regulations may affect small businesses.

### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed is: (a) Steven D. Wong, Branch Chief; (b) back-up for Mr. Wong is Stanley Buscombe, Program Supervisor; and (c) questions of a technical nature may be directed to Michael Davidson. All of the above persons are located at the Department of Food and Agriculture, Division of Inspection Services, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Room A-472, Sacramento, California 95814, phone (916) 654-0574. Written comments may also be sent via fax to (916) 653-2407 and e-mail to mkhosrav@cdfa.ca.gov.

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer named herein.

## **FINAL STATEMENT OF REASONS AND INTERNET ACCESS**

The final statement of reason when available can be obtained from agency contact person or internet at <http://www.cdfa.ca.gov/newsinfo/regulations.html>. Documents pertaining to this rulemaking action may be accessed at <http://www.cdfa.ca.gov/newsinfo/regulations.html>.

## **DEPARTMENT OF FOOD AND AGRICULTURE**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary